



U.S. Department of Justice

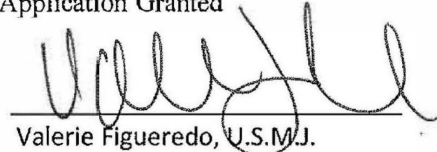
United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

By ECF

The Honorable Valerie Figueredo
United States Magistrate Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Application Granted



Valerie Figueredo, U.S.M.J.

DATED: 7-17-2023

The parties are directed to provide a joint status update by September 11, 2023. **SO ORDERED.**

Re: *New York Times Co. v. DOD*, 22 Civ. 10299 (GHW) (VF)

Dear Judge Figueredo:

We write respectfully on behalf of all parties to provide a status report in the above-captioned action brought under the Freedom of Information Act (“FOIA”). This action involves FOIA requests submitted by Charlie Savage, a reporter with The New York Times Company (collectively, the “Times”) to the Department of Defense (“DoD”) or its component, the United States Special Operations Command (“SOCOM”).

The FOIA Request to SOCOM

The FOIA request to SOCOM seeks (1) policy guidance governing the use of authority under 10 U.S.C. § 127e, 10 U.S.C. § 333, and the National Defense Authorization Act of 2018, and (2) reports periodically provided to Congress, and slide decks from briefings to Congress, since January 1, 2018, concerning the use of authority under the same three statutes. As previously reported to the Court, SOCOM identified 14 records responsive to this request, comprising approximately 450 pages. To date, SOCOM has produced three of these records.

With regard to the remaining eleven records, ten remain pending consultation with the United States Central Command (“CENTCOM”), which still expects to complete that consultation by August 15, 2023. Upon receipt of this final consultation, SOCOM will need to consolidate the results of all consultations, prepare a final redacted production set, and submit that package for final review and approval within SOCOM and the Office of Secretary of Defense (“OSD”).

As explained in the last status report, the final record requires reclassification through a special classification review process under section 1.7(d) of Executive Order 13,526. SOCOM anticipates that this review and reclassification process will be completed within approximately 30 days, and it will take an additional 2-4 weeks to process the reclassified record for production under FOIA, and obtain final approval within SOCOM and OSD.

The FOIA Request to DoD

The other FOIA request at issue in this case seeks two memoranda signed by President Biden in October 2022 and sent to DoD: (1) a national security memorandum outlining a strategy for combatting international terrorism, and (2) a presidential policy memorandum setting rules and procedures for counterterrorism direct action operations away from areas of active hostilities. Following an extensive interagency consultation process, DoD produced redacted versions of these two records on June 30, 2023. DoD has therefore completed its response to this FOIA request.

Defendants respectfully propose to submit a further status report within 60 days, or by September 11, 2023, at which time SOCOM hopes to be in a position to report that its response to the FOIA request is complete or nearly complete.

We thank the Court for its consideration of this submission.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: Elizabeth J. Shapiro
ELIZABETH J. SHAPIRO
U.S. Department of Justice
Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
Telephone: (202) 514-5302
Facsimile: (202) 616-8470
Elizabeth.Shapiro@usdoj.gov

By: Sarah S. Normand
SARAH S. NORMAND
Assistant U.S. Attorneys
86 Chambers Street, Third Floor
New York, New York 10007
Telephone: (212) 637-2709
Facsimile: (212) 637-2730
Sarah.Normand@usdoj.gov

Counsel for Defendant